

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

If incorporation of the proposed municipality is approved, it will create an additional local government entity.

Ensure Lower Taxes

According to the Economic Impact Statement, there will be an increase in property taxes of 1.5 mils for the incorporated area.

B. EFFECT OF PROPOSED CHANGES:

Background

Constitutional Provisions

Section 2, art. VII, of the State Constitution, provides that municipalities¹ may be established or abolished and their charters amended pursuant to general or special law. Municipalities are constitutionally granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by law. The only specific constitutional requirement concerning municipal government is that its legislative body be elected.

Statutory Provisions

Florida law governing the formation and dissolution of municipal governments is found in ch. 165, F.S., the "Formation of Municipalities Act (Act)." The stated purpose of the Act is to provide standards, direction and procedures for the incorporation, merger and dissolution of municipalities so as to:

- allow orderly patterns of urban growth and land use;
- assure adequate quality and quantity of local public services;
- ensure financial integrity of municipalities;
- eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
- promote equity in the financing of municipal services.

Under ch.165, F.S., there is only one way to establish a city government where no such government exists: the Legislature must pass a special act creating the city's charter, upon determination that the standards provided in that chapter have been met.²

¹ A municipality is a local government entity, located within a county that is created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. The term "municipality" can be used interchangeably with the terms "city," "town" and "village."

² An exception to this rule exists in Miami-Dade County where it appears that the county has the exclusive power to create cities through its home rule powers.

Requirements and Standards for Municipal Incorporation

Submittal of a feasibility study and a local bill that proposes the local government charter is required for consideration of incorporation. In addition, the new municipality must meet the following conditions in the area proposed for incorporation pursuant to s. 165.061(1), F.S.:

1. It must be compact, contiguous and amenable to separate municipal government.
2. It must have a total population, as determined in the latest official state census, special census, or estimate of population, of at least 1,500 persons in counties with a population of less than 75,000, and of at least 5,000 population in counties with a population of more than 75,000.
3. It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
4. It must have a minimum distance of at least two miles from the boundaries of an existing municipality within the county or have an extraordinary natural boundary that requires separate municipal government.
5. It must have a proposed municipal charter that clearly prescribes and defines the form of government and its functions and does not prohibit or restrict the levy of authorized tax.
6. In accordance with s. 10, art. I, State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation.

Feasibility Study

The feasibility study is a study of the proposed area to be incorporated. The purpose of the study is to enable the Legislature to determine whether or not the area: 1) meets the statutory requirements for incorporation, and 2) is financially feasible. The feasibility study must be completed and submitted to the Legislature at least 90³ days prior to the first day of the regular legislative session during which the municipal charter would be enacted.

In 1999, the Legislature revised s.165.041, F.S., by adding new, detailed requirements for the preparation of the required feasibility study for any area requesting incorporation. Specifically, the study must include:

1. The general location of territory subject to a boundary change and a map of the area that identifies the proposed change;
2. The major reasons for proposing the boundary change;
3. The following characteristics of the area:
 - a list of the current land use designations applied to the subject area in the county comprehensive plan;
 - a list of the current county zoning designations applied to the subject area;
 - a general statement of present land use characteristics of the area;
 - a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
4. A list of all public agencies, such as local governments, school districts, and special districts, whose current boundaries fall within the boundary of the territory proposed for the change or reorganization;
5. A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each service;

³ Section 165.041(1)(b), F.S.

6. A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such services;
7. The names and addresses of three officers or persons submitting the proposal;
8. Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:
 - existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and
 - a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance and budgets;
9. Data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations and an explanation concerning methodologies used for such analysis;
10. Evaluation of the alternatives available to the area to address its policy concerns;
11. Evidence that the proposed municipality meets the standards for incorporation of s.165.061, F.S.

Section 165,081, F.S., provides that any special law enacted pursuant to ch. 165, F.S., is reviewable by certiori if the appeal is brought before the effective date of the incorporation.

HB 1339

HB 1339 provides for the creation and establishment of the Town of Loxahatchee Groves, contingent upon approval by a majority vote of qualified electors residing within the corporate limits of the proposed city. Loxahatchee Groves is a rural community in Palm Beach County which includes equestrian, farming and nursery businesses. Its boundaries are established by the Loxahatchee Groves Water Control District, and total 8,148 acres. There are approximately 3,122 residents of this area.

A feasibility study on the creation of the Town of Loxahatchee Groves was submitted to the Florida House of Representatives on December 8, 2004. The study was provided to the:

- Office of Economic & Demographic Research;
- Legislative Committee on Intergovernmental Relations;
- Governor's Office of Planning and Budgeting;
- Department of Revenue; and
- Department of Community Affairs.

The Governor's Office and Department of Community Affairs declined to offer comments. The remaining reviewers indicated that the feasibility study and proposed charter failed to meet a number of the statutory requirements of ch. 165, F.S. The reviewers also noted possible defects in the charter, and expressed reservations regarding the provision of municipal services and financial feasibility of the incorporation. Their responses are noted in "Comments" in Section III.C. of this analysis.

The proposed charter for the Town of Loxahatchee Groves is included in the bill, and provides as follows:

Section 1: Corporate existence; form of government; boundary and powers.

- (1) Corporate existence:
 - (a) Creates a municipality known as the Town of Loxahatchee Groves effective December 31, 2005.
 - (b) States that the area includes a compact and contiguous rural community of approximately 3,120 persons who are experiencing certain impacts resulting from urbanization in surrounding areas, and indicates that the residents would like to control the effects of those impacts through incorporation.

- (c) Provides that it is in the best interests of the public health, safety and welfare of the residents of the area to form a separate municipality with all powers and authority necessary to provide municipal services.
 - (d) Provides that it is intended that the charter and incorporation will serve to preserve and protect the distinctive rural characteristics of the community.
 - (e) Provides that it is the intent of the charter and incorporation to secure the benefits of self-determination, and affirm the values of representative democracy, citizen participation, strong community leadership, professional management and regional cooperation.
 - (f) Provides that the town council will exempt agricultural activities conducted on farm land from any ordinances that interfere with reasonable agricultural activities conducted on farm land as defined in s. 823.14, F.S.
 - (g) Provides that the town will not annex the area known as "Callery-Judge Groves."
- (2) Form of government: Provides that the town will have a "council-manager" form of government.
- (3) Corporate boundary: Provides a legal description of the town's boundaries.
- (4) Municipal powers: Provides that the town will be a body corporate and politic and will have all governmental, corporate and proprietary powers of a municipality under the State Constitution and laws of the state; provides that the charter and powers of the town will be construed liberally in favor of the town; provides a statement of recognition that certain services within the proposed municipal boundaries are provided by independent special districts and by Palm Beach County.

Section 2: Council; mayor and vice mayor.

- (1) Town council: Provides for a five-member town council elected at large who are vested with all legislative and charter powers of the town, unless otherwise provided by the charter.
- (2) The mayor; powers and duties: Provides for the election of a mayor by the council at its first regular meeting after the fourth Tuesday of each March who will serve a one-year term; provides that the mayor will preside at council meetings and be recognized as the head of town government for service of process, ceremonial matters and the signature or execution of ordinances, contracts, deeds, bonds and other instruments, and for purposes of military law; provides that the mayor will also serve as the ceremonial head of the town and the town official designated to represent the town.
- (3) The vice mayor: Provides for the election of a vice mayor by the council at its first regular meeting after the fourth Tuesday of each March who will serve a one-year term; provides that the vice mayor serve as acting mayor during the absence or disability of the mayor; provides that in the absence of the mayor and the vice mayor, the remaining council members will select an acting mayor.

Section 3: Election and terms of office.

- (1) Provides that each council member will serve three-year terms; provides that council members will be sworn into office at the first regularly scheduled meeting following their election; provides that each council member will remain in office until his or her successor is elected and assumes the position.
- (2) Provides that the town council will be divided into five separate council seats, with each qualified elector entitled to vote for one candidate for each seat.
- (3) Provides that candidates for council seats must qualify for election in accordance with applicable Florida law; provides that to qualify for office, each candidate must:
 - file a written notice of candidacy with the town clerk and payment of any fees required by the Florida Statutes;
 - be a registered voter in the state;
 - have maintained domicile within the boundaries of the town for a period of one year prior to qualifying for election and, if elected, maintain such residency throughout the term of office; and

- qualify with the town clerk no sooner than noon on the last Tuesday in January nor later than noon on the first Tuesday in February in the year of the election.
- (4) Provides that vacancies in office will occur upon the death of an incumbent, removal from office as authorized by law, resignation, appointment to other public office which creates dual office holding, a judicial determination of incompetence, or forfeiture of office; provides that any council member will forfeit his office upon determination by the council at a public meeting that the member: lacks any qualification for office, is convicted of a felony or enters a plea of guilty or nolo contendere, is found to have violated the Code of Ethics for Public Officers and Employees and has been suspended from office by the Governor, or is absent from three consecutive regular council meetings without good cause; provides that the council will be the sole judge of the qualifications of its members, and that a member whose qualifications are in question will be entitled to a public hearing; provides that any council member will be suspended from office upon return of an indictment or issuance of any information charging the council member with a felony or any crime arising out of his or her official duties which is a misdemeanor; provides that during suspension, a council member may not perform any official acts or receive any payment; provides that if the suspension is lifted the council member is entitled to full back pay; provides that if any vacancy occurs and the remainder of the member's unexpired term is less than one year and 81 days, the council members will appoint a person by majority vote to fill the term within 30 days; provides that if a vacancy occurs and the remainder of the unexpired term is equal to or exceeds one year and 81 days, the remaining members will appoint a person to fill the vacancy by majority vote until the next regularly scheduled town election; provides that if a vacancy occurs in the office of the mayor and less than 120 days remain in the term of the member that the vice mayor will serve as mayor until a new mayor is elected; provides that if a vacancy occurs in the office of mayor and 120 days or more remain in the term that the vice mayor will serve as mayor until a new council member is elected, and the council elects a new mayor and vice mayor; provides that persons appointed to fill vacant seats meet the required qualifications of that seat; provides that if at any time the full membership of the council is reduced to less than a quorum, the remaining members may appoint additional members by majority vote; provides that in the event that all council members are removed, the Governor shall appoint interim council members who will call a special election not less than 30 days or more than 60 days after such appointment; provides that if there are fewer than six months remaining in the unexpired terms, the interim appointed council will serve out the unexpired terms; provides that council members are entitled to receive reimbursement in accordance with Florida Statutes for authorized travel and per diem expenses incurred in the performance of their official duties; provides that the council may elect for an increase in compensation by ordinance, but that any such ordinance will not take effect until the commencement of the terms of council members elected at the next regular election.

Section 4: Administrative.

- (1) Designation of charter officers: Provides that the town manager and attorney are designated as charter officers, and that the office of town attorney may be contracted to an attorney or law firm.
- (2) Appointment; removal; compensation; filling of vacancies: Provides that charter officers are appointed by a majority vote of the full council and serve at their pleasure; provides that charter officers can be removed from office only by a super majority vote of the full council; provides that the compensation of charter officers shall be fixed by the town council by contract; provides that the town council begin the process to fill a vacancy in a charter office within 90 days of a vacancy; provides for the appointment of an acting town manager or attorney during a vacancy; provides that a charter officer may not be a member of or candidate for the town council.
- (3) Town manager: Provides that the town manager will be the chief administrative officer of the town under the direction of the town council, and that he be appointed by a resolution approving an employment contract; provides for minimum qualifications for the town manager; provides for

the designation of an “acting town manager” to execute the functions of the town manager in his absence; provides for the powers and duties of the town manager.

- (4) Town attorney: Provides for a town attorney to be employed under the terms and conditions deemed advisable by the council; provides for the qualifications for the town attorney; provides that the town attorney may appoint assistant town attorneys; provides for functions to be performed by town attorney.
- (5) Town clerk: Provides for the appointment of a town clerk by the town manager, and provides for his duties.
- (6) Expenditure of town funds: Provides that no funds of the town be expended except pursuant to duly approved appropriations or for the payment of debts authorized by the council and from authorized funds.
- (7) Town boards and agencies: Provides that the council may establish or abolish any boards and agencies as it deems advisable, and appoint members by resolution.

Section 5: Legislative.

- (1) Provides that the council conduct regular, public meetings at such times and places as it prescribes by resolution.
- (2) Provides that special meetings may be held at the call of the mayor or the request of a majority of council members. Provides for at least 72 hours notice of the meeting, unless an emergency exists.
- (3) Provides that meetings are to start no earlier than 7 a.m. or later than 10 p.m.
- (4) Provides that the council determine its own rules and order of business.
- (5) Provides that a majority of the full council constitutes a quorum.
- (6) Provides that actions of the council be adopted by a majority of the full council to be valid.
- (7) Provides that the legislative powers of the town be vested in the council.
- (8) Provides that the council may establish departments, offices or agencies by ordinance.
- (9) Provides that the council may adopt any standard code of technical regulations by reference in an ordinance.
- (10) Provides that the council may adopt one or more emergency ordinances to meet a public emergency affecting life, health, property or the public peace; provides that an emergency ordinance may be adopted by the affirmative vote of four council members; provides that emergency ordinances become effective upon adoption; provides that every emergency ordinance is automatically repealed 61 days following its effective date.
- (11) Provides that the council may make emergency appropriations by resolution to meet a public emergency affecting life, health, property or the public peace.
- (12) Provides that the council provide for the recording of all minutes or meetings and all ordinances and resolutions adopted by the council.
- (13) Provides that no present or former elected town official hold any compensated appointive office or employment of the town while in office; provides that former council members may not be employed by the town until a year after leaving office.
- (14) Provides that council members are prohibited from interfering with the performance of the duties of any town employee who is under the supervision of the town manager or attorney, and that such action constitutes malfeasance within the meaning of s. 112.317 and 112.51, F.S.

Section 6: Budget and appropriations.

- (1) Provides that the town’s fiscal year is from October 1- September 30.

- (2) Provides that the council adopt a budget in accordance with Florida law, following a minimum of two public hearings; provides that a resolution adopting the budget constitute appropriation of the amounts specified therein as expenditures from the indicated funds.
- (3) Provides that the budget shall not provide for expenditures in an amount greater than the budgeted revenues.
- (4) Provides that if excess revenues become available the council may make supplemental appropriations; provides for remedial action, if revenues appear to be insufficient; provides that no appropriation for debt service may be reduced or transferred.
- (5) Provides that the town may borrow money and issue bonds; provides that bonds may be issued pursuant to resolutions adopted by a majority of the council; provides that the town may assume all outstanding indebtedness relating to facilities it acquires from other units of local government.
- (6) Provides that the council shall not authorize the issuance of revenue bonds or enter into lease-purchase contracts or any other unfunded multiyear contracts for the purchase of real property or a capital improvement which would take in excess of 36 months to repay, unless authorized by the electors, or mandated by state or federal governing agencies.
- (7) Requires that the council provide for an independent annual financial audit of all town accounts.

Section 7: Elections.

- (1) Provides that a town elector is a resident who has qualified as an elector of the state, and registers.
- (2) Provides that town council member elections be nonpartisan.
- (3) Provides that a special election will be held on the second Tuesday in March 2006, and regular elections will be held on the second Tuesday in March of each election year as follows, and provides for staggered offices based on the number of votes a member receives when first elected; provides that such town elections are general town elections.
- (4) Provides that if no candidate receives a majority of votes, the person receiving the largest number of votes cast will be elected. If two candidates receive an equal number of votes, a runoff election is held on the fourth Tuesday in March.
- (5) Provides for a town canvassing board composed of those members of the town council who are not candidates for reelection and the town clerk.
- (6) Provides for special municipal elections to be held in the same manner as regular elections.
- (7) Provides that the ballot for general elections will contain the names of all qualified candidates for each seat, and that the candidate for each seat receiving the most votes will be elected; provides that no election will be required if there is only one qualified candidate for the seat; provides that if more than one candidate receives an equal and highest number of votes, there will be a runoff election; provides that the candidate receiving the highest number of votes in the runoff election will be elected to the seat; provides that if the runoff election results in a tie, the outcome will be determined by lot; provides that terms of office commence immediately after the election; provides for an oath to be taken by all elected officers; provides that the election laws of the state will apply to all elections; provides that any member of the town council may be removed from office by the town electors following the procedures for recall established by general law.

Section 8: Initiative and referendum.

- (1) Provides that the electors of the town have the power to propose ordinances to the town council, and to adopt such an ordinance at a town election if the council fails to adopt the ordinance, as long as the ordinance does not apply to the budget, capital program, the levy of taxes, or the setting of salaries; provides that the council has the power to call for a referendum by resolution at any time provided that the purpose of the referendum is presented to the town at a public hearing at least 60 days prior to the adoption of the resolution; provides that the electors of the town have the power to require the town council to reconsider any adopted ordinance as long as the ordinance does not apply to the budget, capital program, the levy of taxes, or the setting of salaries.
- (2) Provides that any 10 electors may commence initiative or referendum proceedings by filing an affidavit with the town clerk, who will issue appropriate petition blanks.
- (3) Provides that initiative and referendum petitions must be signed by at least 10 percent of the total number of electors registered to vote in the last regular town election; provides that each signature on a petition be in ink and followed by the printed name and address of the person signing; provides that the circulator of petitions certify the authenticity of signatures; provides that initiative and referendum petitions be filed within 60 days of the date on which proceedings with respect to such initiative or referendum are commenced, and that the submission of signatures be completed no later than 90 days following the date of filing said petition.
- (4) Provides that within 20 days after a petition is filed that the town clerk completes a certificate as to its sufficiency or insufficiency; provides that a petition certified insufficient for lack of the required number of valid signatures may be amended once if certain conditions are met; provides that the town council will review insufficient petitions if certain conditions are met.
- (5) Provides that when a petition is sufficient, the town council will consider the ordinance at issue; provides for the submission of the ordinance to the electors of the town if the council fails to act in a specified number of days; provides for the submission of the ordinance to the electors; provides for the withdrawal of petitions any time prior to the 15th day preceding the day the election is scheduled.
- (6) Provides that if a majority of the electors vote in favor of an ordinance, that it will be considered adopted upon certification of election results; provides that if a majority of the electors vote against an ordinance that it will be considered repealed upon certification of election results.

Section 9: General provisions.

- (1) Provides for severability of provisions.
- (2) Provides that all new employments, appointments and promotions of town officers and employees be made pursuant to personnel procedures to be established by the town manager.
- (3) Prohibits the town from making any charitable contributions unless authorized by the council.
- (4) Provides for the use of pronouns within the charter.
- (5) Provides that for purposes of the charter, the term "day" means a calendar day.
- (6) Provides that the town council appoint a charter review committee at its first regular meeting in March 2011 and every 10th year thereafter.
- (7) Provides that the charter may be amended in accordance with the Florida Statutes.
- (8) Provides that the electors of the town may propose amendments to the charter by petition.
- (9) Provides that all elected officials and employees of the town are subject to the Code of Ethics for Public Officers and Employees. Provides that the council will establish its own code of ethics by ordinance no later than six months from the effective date of the corporation.

- (10) Provides that changes to the town's future land use map that increase allowable densities or intensities for more than five parcels of land require approval by a vote of the town electors in a referendum election.
- (11) Provides that changes to ordinances amending the town's applicable zoning designations that provide for an increase in allowable densities or intensities on more than five parcels of land require approval of the town electors in a referendum.
- (12) Provides that for purposes of the charter, a parcel is defined as the smallest buildable lot as provided by the town's code or ordinances and applicable land development regulations.

Section 10: Transition schedule.

- (1) Provides that the referendum election for considering the incorporation of the Town of Loxahatchee Groves be held on November 8, 2005.
- (2) Provides that following the adoption of the charter, the Palm Beach County Commission will call a special election for the election of the town council members to be held on March 14, 2006; provides that a runoff election would be held on March 28, 2006; provides that any individual who wants to run for the council must qualify as a candidate with the Palm Beach County Supervisor of Elections; provides for the Palm Beach County Commission to appoint a canvassing board to certify the results of the election; provides that those who are elected will take office at the initial town meeting to be held at 7 p.m. on March 30, 2006.
- (3) Provides that for the purpose of compliance with s. 200.066, F.S., relating to assessment and collection of ad valorem taxes, the town is created effective December 31, 2005, although it will not be operational until March 30, 2006.
- (4) Provides that the town council will have the power to borrow the money necessary for the operation of the town until a budget is adopted and revenues are raised.
- (5) Provides that the council adopt transitional ordinances and resolutions, and that such ordinances may be adopted as emergency ordinances.
- (6) Provides that until the town adopts a comprehensive plan, all applicable provisions of the Comprehensive Plan and Land Development Regulations of Palm Beach County will remain in effect; provides that all planning functions, duties and authority will rest in the town council; provides that the council will be deemed the local planning agency until it establishes a separate local planning agency; provides that after the passage of the act, no amendment of the comprehensive plan or land development regulations enacted by the Palm Beach County Commission will take effect within the town's corporate limits.
- (7) Provides that the town will be entitled to participate in all shared revenue programs of the state effective immediately on the date of incorporation; provides that the provisions of s. 218.23(1), F.S., will be waived for the purpose of eligibility to receive revenue sharing funds; provides that initial population estimates for calculating eligibility for shared revenue be determined by the University of Florida Bureau of Economic and Business Research; provides for the Palm Beach County Planning Division estimate to be used if the bureau is unable to provide an appropriate population estimate.
- (8) Provides that the town will be entitled to receive local gas tax revenues beginning October 1, 2006.

Section 11: Continuation, merger, and dissolution of existing districts and service providers.

- (1) Provides that the Palm Beach County Fire Rescue Municipal Service Taxing Unit, a special taxing district, is authorized to continue in existence within the boundaries of the town until the town adopts an ordinance to the contrary; provides that the town will not establish a fire department without a referendum.

- (2) Provides that law enforcement services will be provided by contract with the Palm Beach County Sheriff's Office, or contracted with other law enforcement agencies, until the town adopts an ordinance to the contrary; provides that the town will not establish a police department without a referendum.
- (3) Provides that that portion of the Palm Beach County Library District, a dependent district of Palm Beach County, that lies within the town, is authorized but not required to continue in existence; provides that, in order to be excluded from the library district, the town must establish a municipal tax-funded library.
- (4) Provides that the portion of the Palm Beach County Municipal Service Taxing Unit B, a dependent district of Palm Beach County, that lies within the boundaries of the town will cease to exist within the municipal boundaries of the town on September 30, 2006.
- (5) Provides that the portion of the Palm Beach County Municipal Service Taxing Unit F, a dependent district of Palm Beach County, that lies within the boundaries of the town will cease to exist within the municipal boundaries of the town on September 30, 2006.
- (6) Provides that the Loxahatchee Groves Water Control District is authorized to continue in existence.
- (7) Provides that the Loxahatchee Groves Park will continue to be operated by the Palm Beach County Department of Parks and Recreation; provides that all planned improvements to the park be subject to the approval to the town, but remain the responsibility of Palm Beach County.

Section 12: Funding for comprehensive planning.

Provides that the Legislature appropriate \$100,000 for the purposes of development and adoption of a comprehensive plan for the town in accordance with ch. 163, F.S.

Section 13: Repeal of previous legislation.

Provides that section 6 of s. 2 of ch. 99-425, L.O.F., is repealed. Chapter 99-425, L.O.F., is the codification of the Loxahatchee Groves Water Control District, and the section that the incorporators seek to repeal provides that no land within the boundaries of the district may be annexed by any municipality unless the municipality agrees to annex all of the real property composing the district. This restriction does not apply to a portion of the district which is legally described.

Section 14: Request for waivers.

Provides that the thresholds established by s. 165.061, F.S., have been met with exceptions.

- (1) Provides that a waiver is granted with regard to the s. 165.061(1)(b), F.S., requirement for a minimum population of 5,000.
- (2) Provides that a waiver is granted with regard to the s. 165.061(1)(c), F.S., requirement for a minimum density of 1.5 persons per acre.
- (3) Provides that a waiver is granted with regard to the 165.061(1)(d), F.S., requirement that requires a minimum distance of two miles from an existing municipality.

Section 15: Effective date.

Provides that the act take effect upon approval of a majority of qualified electors residing within the proposed corporate limits of the proposed town voting in a referendum to be called by the Board of County Commissioners of Palm Beach County to be held on November 8, 2005, except that s. 10(1) and (6)(b) and this section will take effect upon the act becoming law; provides that, if approved by a majority of votes, that the act and charter will take effect immediately upon certification of election results.

D. SECTION DIRECTORY:

Section 1: Provides for corporate existence; form of government; boundary and powers.

Section 2: Provides for town; mayor and vice mayor.

Section 3: Provides for council members, elections and terms of office.

Section 4: Provides for town manager and attorney; appointment; removal; compensation; and filling of vacancies; provides for expenditure of town funds; town boards and agencies.

Section 5: Provides for town council meetings and powers.

Section 6: Provides for town budget and appropriations.

Section 7: Provides for town elections.

Section 8: Provides for initiative petitions and referendum.

Section 9: Provides general provisions.

Section 10: Provides a transition schedule.

Section 11: Provides for continuation, merger, and dissolution of existing districts and service providers.

Section 12: Provides for a legislative appropriation for comprehensive planning.

Section 13: Provides for repeal of section 6 of s. 2 of ch. 99-425, L.O.F.

Section 14. Provides for waivers from s. 165.061, F.S.

Section 15. Provides for effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

Note: Section 10, art. III, State Constitution provides: No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. **Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.**

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 8, 2005.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

According to the Economic Impact Statement, the estimated cost of administration, implementation and enforcement for this bill is \$517,859 in FY 05-06, and \$530,380 in FY 06-07. The anticipated sources of funding are as follows:

	FY 05-06	FY 06-07
State: Revenue Sharing	\$72,036	\$73,765
Half Cent Sales Tax	\$217,979	\$223,210
Local: Ad Valorem Taxes	\$228,242	\$235,090

The EIS also states that the incorporation will have little impact on Palm Beach County because current county services will be kept at the same level of service and the area at issue accounts for less than .2 percent of the population of the county. There will be an increase in property taxes of 1.5 mills for the incorporated area.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues/Exceptions to General Law

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to create exemptions to s. 165.061(1)(b), F.S., (which requires a minimum population of 5,000); s. 165.061(1)(c), F.S., (which requires a minimum density of 1.5 persons per acre); and s. 165.01(1)(d), F.S., (which requires a minimum distance of two miles from an existing municipality). The bill additionally may create an exemption to s. 125.01, F.S., which gives counties the authority to prepare and enforce comprehensive plans, and establish and enforce zoning ordinances, as well as the Local Government Comprehensive Planning and Land Development Regulation Act found at part II of ch. 163, F.S., in that section 10 of the bill provides that after the passage of the act, no amendment of the comprehensive plan or land development regulations enacted by the Palm Beach County Commission will take effect within the town's corporate limits. Also, section 10 of the bill seeks to waive the eligibility requirement for revenue sharing contained in s. 218.23(1), F.S., through FY 06-07, and to establish an exemption from 200.066, F.S., which provides that ad valorem taxes of newly created municipalities be initially imposed no earlier than the January 1 subsequent to the creation of the municipality.

Feasibility Study Reviews⁴

The Legislative Committee on Intergovernmental Relations

The following are selected comments from the Legislative Committee on Intergovernmental Relations (LCIR) regarding the proposed charter for the Town of Loxahatchee:

Section 1(1): Subsections (b) and (d) call for the continued preservation and protection of the rural characteristics of the community. Such terms are vague, undefined, and may cause unnecessary confusion with future development proposed in the community. Subsection (f) directs the governing body of Loxahatchee Groves to exempt agricultural activities conducted on farm land from any ordinances that interfere with reasonable agricultural activities conducted on farm land as defined in the Florida Right To Farm Act (s. 823.14, F.S.) as may be amended from time to time. Section 823.14(6), F.S., currently prohibits a local government from adopting any such ordinance which may make subsection (f) unnecessary. Subsection (g) prohibits Loxahatchee Groves from annexing certain adjacent property. Including such a provision in a municipal charter is unusual. If there is a need to reassure certain local stakeholders that Loxahatchee Groves will not attempt to annex this adjacent property, such a commitment might better be accomplished in an ordinance or by resolution of the city council.

Section 2(3): Subsection (a) invests the vice-mayor with the same legislative powers and duties as the mayor. It may be appropriate to clarify that the vice-mayor would have such authority only when serving as acting mayor.

Section 4(3): Subsection (d) authorizes the council to designate a temporary town manager during the absence or disability of the existing town manager. It would be appropriate to define "disability" in the charter and eliminate possible future confusion on the meaning of the term. Subsection (e) provides the powers and duties of the town manager which include signing of contracts. Such responsibility is also assigned to the mayor in Article 2(2)(b). It may be appropriate to clarify the assignment of responsibilities between the mayor and manager.

Section 4(4): Subsection (b) specifies the qualifications for the town attorney. This subsection should be amended to include the requirement that the attorney be a member in good standing with the Florida Bar.

Sections 7 and 8: Sections 7 and 8 address council elections and referendum and initiative elections, respectively. It is unclear whether Loxahatchee Groves or the Palm Beach Supervisor of Elections' Office is responsible for elections administrations. It may be appropriate to clarify how elections will be administered and funded.

Section 9 (10) and (11): These subsections call for a referendum whenever increases in allowable densities or intensities for more than five parcels of land are proposed as changes to the future land use map or as ordinances amending zoning designations. While these provisions might serve to preserve and protect the rural characteristics of the community, a noted reason for pursuing incorporation, they might as easily serve to prevent development beneficial to rural lifestyles.

Section 10 (7): This subsection authorizes Loxahatchee Groves to participate in all state shared revenue programs and waives the eligibility requirements in s. 218.23(1), F.S., through FY 2006-07. It may be appropriate to specify participation in state revenue sharing programs available to municipalities. In addition, the requested waiver should be limited to the requirements regarding financial reports and audits which the Legislature has temporarily waived in the past until such reports are available. Also, given that it can take up to three years for the required financial reports and audits to become available, it may be appropriate to extend the waiver until through FY 2007-08.

⁴ The comments of the Florida Legislature's Office of Economic and Demographic Research are for the most part identical to those provided by the LCIR with regard to their review of the statutory requirements related to population, and, therefore, have not been included.

Section 11(3): This subsection authorizes Loxahatchee Groves to establish a “municipal tax-funded” library should it not continue to participate in the Palm Beach County Library District. It may be appropriate to refer to the facility as a “municipal funded” library in order to not limit possible methods of funding.

Section 11(4) and (5): These subsections terminate the portions of the Palm Beach County Municipal Service Taxing Units (MSTUs) B and F, respectively, which lie within the boundaries of Loxahatchee Groves, upon incorporation. The purposes served and functions afforded by these MSTUs are not identified. While it may be appropriate to terminate these MSTUs, impacts, if any, from doing so are unknown.

Section 11(7): This subsection directs Palm Beach County to maintain responsibility for the Loxahatchee Groves Park and requires any proposed improvements to the park to be approved by the “Town of Loxahatchee Groves.” It is unknown whether Palm Beach County government has prior policies relevant to the planning, development and financing responsibilities for county parks or other county facilities. Any such policy may supersede, and/or be in conflict with this provision.

Section 12: This section calls for the Legislature to appropriate \$100,000 for the purposes of development and adoption of the comprehensive plan for Loxahatchee Groves. At one time the Legislature authorized three annual installments of \$40,000 to assist a newly created municipality with the development and implementation of its comprehensive plan. According to staff with the Department of Community Affairs, Division of Community Planning, this financial assistance has not been provided in recent years.

The LCIR additionally provided the following comments regarding whether the proposed incorporation meets state standards for municipal incorporation as specified in s. 165.061(1), F.S., and whether the feasibility study meets the statutory requirements for such a study in s. 165.041, F.S.:

State Standards for Municipal Incorporation

- According to information provided by the Palm Beach County Department of Planning, Zoning, and Building and as reported in the Study (page 6 and maps in Appendix B), the proposed area for incorporation meets the requirement that the area be compact and contiguous (s. 165.061(1)(a), F.S.)
- Based on the 2003 estimated population of 3,122 provided in the Study (page 1), the area proposed for incorporation does not meet the population requirements found in s. 165.061(1)(b), F.S.
- The Study (pages 2 and 7) reports the number of acres proposed for incorporation at 8,148 acres and the estimated population at 3,122. Based on these data, the density of the area proposed for incorporation is 0.38 persons per acre, rather than the .65 persons per acre reported (page 7). The density of Loxahatchee Groves is approximately one-quarter of the required minimum under s. 165.061(1)(c), F.S., of 1.5 persons per acre. Alternatively, the statutes provide that the area have extraordinary conditions requiring the establishment of a municipal incorporation with less existing density. The Study (pages 1 and 7) suggests that the unique rural character of Loxahatchee Groves and its standing as a readily identified community meet this statutory condition. As such, it cannot be ascertained whether the unique characteristics of Loxahatchee Groves serve as extraordinary conditions as required by law.
- Information in the Study acknowledges that the area to be incorporated does not maintain a distance of at least two miles from a boundary of two existing municipalities, the Cities of Royal Palm Beach and Wellington, nor does it suggest the presence of any extraordinary natural boundary that requires separate municipal government as required by s. 165.061(1)(d), F.S. The area proposed for incorporation does not meet the minimum two-mile limit requirement.

- Under s. 165.061(1)(e)1., F.S., the proposed charter must prescribe the form of government and clearly define the responsibilities for legislative and executive functions. The Charter meets this criterion.
- Under, s. 165.061(1)(e)2., F.S., the proposed charter must not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Florida Constitution or general law. The Charter appears to meet this criterion.
- Pursuant to s.165.061(1)(f), F.S., the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for five years or the remainder of the contract term, whichever is less. The Study (page 6) acknowledges this criterion and notes that such arrangements will be honored for the remainder of the contract (page 11). Thus, the Study meets this criterion.

Statutory Requirements for Feasibility Study

1. The Study (pages 1-2 and 3-4) meets the requirement that it provide the general location for the proposed municipality. The Study (Appendix B) includes maps of the area proposed for incorporation, and as such, meets this requirement. (s.165.041(b)1., F.S.)
2. The Study (page 4) meets the requirement that it provide reasons for pursuing incorporation. (s.165.041(b)2., F.S.) One of the major reasons for incorporation is to ensure the survival of the rural characteristics of the community and protect it from recent large scale developments and high density residential developments endorsed by the Palm Beach County Board of County Commissioners. The Study proposes, however, that Palm Beach County would continue providing many essential services. Thus, it is unclear how the City of Loxahatchee Groves would ensure the rural character of their community if the county retains authority for these quality of life functions. In addition, Palm Beach County as a charter county has additional authority to define its interactions with other local governments, including how conflicts between county and municipal ordinances are resolved. It may be appropriate to address the relationship between the proposed municipality and Palm Beach County as a charter county.
3. (a) The Study (page 9) meets the requirement that the study include a list of current land use designations applied to the area as currently contained in the county comprehensive plan. (s.165.041(b)3.(a), F.S.) (b) The Study (page 9) meets the requirement that it include a list of current zoning designations. (s.165.041(b)3.(b), F.S.) (c) The Study (pages 1-9 and Appendix C) meets the requirement that it include a general statement of present land use characteristics of the area. (d) The Study does not appear to propose any development for the area, rather it supports maintaining current characteristics and opposing higher density developments. As such, it cannot be ascertained whether the Study meets the requirement to describe proposed development.
4. The Study appears to identify local public agencies with boundaries lying within the territory proposed for incorporation.
5. Based on the information contained in the Study, (pages 10-13 and Appendices B and D), it appears to identify all current public service providers for the services identified in s. 165.041(1)(b)5., F.S, and cost estimates for each of those services.
6. The Study appears to meet the requirement that it identify proposed services (pages 11-13). Based on information contained in the Study, we cannot ascertain whether it meets the requirement to identify estimated costs for the proposed services. Supplemental information provided by the Committee to Incorporate Loxahatchee Groves, Inc., Palm Beach County Department of Planning, Zoning, and Building, and the Solid Waste Authority of Palm Beach County indicate some agreement that the county will continue to provide certain services to the

residents upon incorporation such as solid waste and recycling, fire and rescue, maintenance of certain roadways, and maintenance of parks and recreation, and continuation of library services. However, it remains unclear how other services including law enforcement, future water utilities, and planning, zoning, permitting and inspections will be provided. It is assumed that such services would develop through interlocal agreements with the Palm Beach County government and the Sheriff's Office.

7. The Study does not meet the requirement that it include the name and address of three persons submitting the proposal.⁵
8. The Study appears to meet some but not all elements of the requirement that it provide evidence of the fiscal capacity for the area proposed for incorporation with the following caveats:

(a) The Study addresses the majority of tax bases and revenue sources available to a municipality, but provides revenue estimates for only a few of them: ad valorem property tax, Municipal Revenue Sharing Program, the Local Government Half-Cent Sales Tax (pages 12 and 22), and a non-ad valorem assessment to fund the water control district (page 11). An addendum to the report dated January 31, 2005, provides two sets of revenue estimates for franchise fees, licenses and permits, and communications service tax. These and other revenue sources included in the study require some clarification:

- The Study notes that Palm Beach County will continue to provide a range of services to the community with revenues from existing taxes. The addendum notes that Palm Beach County cannot continue collecting certain types of revenues (franchise fees, license and permits, and communications service tax) and paying for services, specifically law enforcement, but further notes the amount of monies from these three revenue sources would be sufficient to cover costs for law enforcement. It is somewhat unclear which services are to be provided by Palm Beach County government through existing county millage, under contract, or through interlocal agreement and which services would be provided by Loxahatchee Groves. As noted above, the supplemental letters provided by The Committee to Incorporate Loxahatchee Groves, Inc., and the Palm Beach County Department of Planning, Zoning, and Building, indicate a willingness for the County to continue providing some services, but it is unclear whether it would provide all of the identified services for the amount specified in the Study (pages 10-13, Appendices A and D, and the addendum).
- State shared revenues (SSR) are identified as revenue sources for Loxahatchee Groves. In order to be eligible to participate in these programs, a municipality is required to meet certain criteria. These requirements include, among others, certain financial and audit reports and a minimum local taxing effort equal to the amount that would be generated by three mills of ad valorem property taxes. The Palm Beach County Planning Division reported current taxable value of property within the Loxahatchee Groves at \$221,457,335. Based on this reported current taxable value, the three-mill equivalency for Loxahatchee Groves is equal to approximately \$664,372. Current budget projections include an ad valorem tax rate of 1.5 mills. The Study does not request a waiver from these requirements, although such a request is included as a provision of the Charter. The requirements regarding financial reports have been temporarily waived in the past until such reports are available. However, the Legislature, in most instances, has required that a proposed incorporation show a minimum local taxing effort in order to qualify for SSR programs. It may be appropriate to credit non-ad valorem assessments from the Loxahatchee Water Control District and/or

⁵ The study did meet this requirement in a cover letter which was not provided to LCIR.

millage levied by Palm Beach County for other municipal type services toward this three-mill requirement.

- The Study does not identify local option fuel taxes as a revenue source or provide revenue estimates, although the Charter includes a provision that entitles Loxahatchee Groves to receive local option gas tax revenues beginning October 1, 2006. In addition, one supplemental letter from Palm Beach County Department of Planning, Zoning, and Building suggests some level of agreement on the distribution of fuel tax revenues between the County and the proposed incorporation.

Consequently, we cannot ascertain whether the Study adequately addresses these tax bases.

(b) The Study does include a five-year operational plan and budget (pages 12-15 and Appendix A). The revenue totals include funds projected from sources for which the proposed municipality may not be eligible to receive and, as noted above, include provisions for other entities to continue providing services or provide under contract or through interlocal agreement without providing evidence that these entities are willing to provide all such services for the amount identified in the budget. In addition, the five-year operational plan in Appendix A allocates less than \$56,000 for the development of a comprehensive plan and contract planning services while Section 3 of the Charter calls for the Legislature to appropriate \$100,000 for the development and adoption of the comprehensive plan. Moreover, in recent years, such state financial assistance has not been provided to newly incorporated municipalities.

Also, although the Charter includes numerous provisions for council member elections, referenda and initiatives, neither the Charter nor the five-year plan specify how such elections will be administered or funded. The Palm Beach County Supervisor of Elections' Office has a standard interlocal agreement or fee schedule for conducting municipal elections which would cost approximately \$4,500 - \$6,000 per election for a municipality the size of Loxahatchee Groves. Given this list of concerns, we cannot ascertain whether the requirement for the five-year operational plan and budget is adequately addressed.

9. The Study appears to address portions of the requirement that it provide data and analysis support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations. Inconsistencies in population density calculations are noted above. Other concerns include those addressed in Section 8, above. In consequence, we cannot ascertain whether the Study data and analysis meet this requirement.
10. The Study meets the requirement for evaluating alternatives available to the area regarding the policy concerns.
11. As note under Issue 1) above, the Study does not provide evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S.

The LCIR also considered whether the proposed revenues and expenditures contained in the Study were consistent with statutory provisions, and concluded that the Study's proposed budget included revenue sources that a municipality is eligible to levy or receive. With the exception of state shared revenues (SSR) and other comments referenced above, the potential revenues identified in the Study appear consistent with statutory provisions. A comparison of the revenue and expenditure estimates for the proposed municipality of Loxahatchee Groves with "similarly sized" municipalities in Florida revealed that the estimated expenditures projected for Loxahatchee Groves (\$517,859) is less than 13 percent of the "average" reported expenditures for the 11 comparison municipalities (\$4,089,225).

Comparison of Total Revenues and Expenditures for 11 Municipalities with Populations Similar to the Population Estimate for the Proposed Municipality of Loxahatchee Groves

MUNICIPALITY	2002 POP. EST.	REVENUES	EXPENDITURES
Loxahatchee Groves	3,122	\$518,257	\$517,859
Indialantic	2,978	\$2,849,292	\$2,993,140
Madison	3,069	\$4,675,616	\$4,258,229
Port Richey	3,077	\$4,729,230	\$6,113,219
Mascotte	3,080	\$2,113,164	\$2,325,752
Fruitland Park	3,220	\$2,659,408	\$2,624,430
Mulberry	3,235	\$4,387,503	\$4,066,873
Biscayne Park	3,274	\$2,389,501	\$2,331,461
Bal Harbour	3,309	\$10,053,943	\$10,932,228
Melbourne Beach	3,403	\$2,338,604	\$2,512,158
Lake Clark Shores	3,462	\$3,452,617	\$3,123,883
Juno Beach	3,484	\$4,095,065	\$3,700,106
AVERAGE	3,236	\$3,976,722	\$4,089,225

Two additional issues should be noted in this comparison. First, the projected expenditures for Loxahatchee Groves do not include expenditures associated with the Loxahatchee Groves Water Control District or costs for services that Palm Beach County may continue to provide to the residents of Loxahatchee Groves under the current county tax structure. If included, such costs would increase the proposed expenditures and reduce the expenditure differential between Loxahatchee Groves and the comparison municipalities.

The second issue regarding the proposed expenditures is that the fiscal data for the 11 comparison municipalities reflect total reported revenues and expenditures for FY 2001-02, while the fiscal estimates for Loxahatchee Groves are those projected for FY 2005-06. It can be assumed that total expenditures and revenues for these 11 municipalities will have increased during this time period, and as a result, the gap has increased between their "average" reported expenditures and those projected for Loxahatchee Groves.

Florida Department of Revenue

The Florida Department of Revenue provided the several comments regarding the proposed incorporation of the Town of Loxahatchee Groves.

Revenue Sharing

- Article 10, Section (7) of the draft charter provides that Loxahatchee Groves be entitled to participate in all state shared revenue programs effective on the date of incorporation, 12/31/05. The entitlement to immediate revenue sharing participation upon the date of incorporation poses two problems. It appears that such early participation conflicts with the definition of a "municipality"

in s. 218.21(3), F.S., which requires that in order to be eligible for revenue sharing, a municipality “must have held an election for its legislative body pursuant to law and established such a legislative body, which meets pursuant to law.” In the case of Loxahatchee Groves, the council will not hold its first meeting until 3/30/06 and therefore Loxahatchee Groves will not be a “municipality” until that date. Also, the date of 12/31/05 for the beginning participation in revenue sharing is problematic, since the use of that date requires that revenue sharing distributions for all counties and municipalities to be calculated for a partial period of 30 days (12/1/05-12/30/05) without Loxahatchee Groves and then to be recalculated for the period of a single day (12/31/05) including Loxahatchee Groves. It is recommended that the initial date for revenue sharing participation be the first day of the month occurring after the first meeting of the council, i.e., 4/1/06, or the first day of any month thereafter.

- Article 10, Section (7) of the draft charter also provides that the provisions of s. 218.23(1), F.S., are to be waived from the date of incorporation (12/31/05) through the state fiscal year 06-07. Loxahatchee Groves will have completed its first full local fiscal year on 9/31/07 and could potentially satisfy the revenue sharing reporting criteria contained in s. 218.23(1), F.S., by 6/30/07, the end of the 06-07 state fiscal year. Section 218.23(1) (c) F.S., requires as a condition of revenue sharing eligibility that a local government impose three mills of ad valorem tax or a three-mill equivalent. The feasibility study on page 12 states that the anticipated millage for Lox Groves after incorporation is 1.5 mills for the fiscal years 2005-2010. On page 11 of the feasibility study, mention is made of the non-ad valorem fee of \$141.95 per acre assessed to fund the Water Control district and that some unspecified amount that is assessed for waste collection, both of which will continue to be paid after incorporation. Neither the draft charter nor the feasibility study provide sufficient information or state a method from which it is possible to determine whether the three-mill requirement can be satisfied after the state fiscal year 2006-2007. Article 10, Sections (4) and (5) state respectively that the Palm Beach Municipal Service Taxing Unit B and Palm Beach County Municipal Service Taxing Unit F will be dissolved effective 9/30/06.

Gas Tax Revenues

- Article 10, Section (8) of the proposed charter states that Loxahatchee Groves shall be entitled to receive local option gas tax revenues beginning 10/1/06. This date complies with s. 336.025(4)(b), F.S., which provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation, which in the instance of Loxahatchee Groves is 10/1/06.
- Section 336.025(4)(b), F.S. requires that gas tax distributions to newly incorporated municipalities are to be in accord with the lane-mile formula unless provided otherwise by the special act providing for the incorporation. Since section (8) of the draft charter is silent regarding any distribution pursuant to an interlocal agreement with Palm Beach County, then gas tax distributions to Loxahatchee Groves will be in accord with the lane-mile formula. Lane-mile data will have to be provided to the Department for use in calculating distributions to Loxahatchee Groves.

Local Communications Services Tax

- Neither the feasibility study nor the draft charter addresses the communications services tax that is currently imposed by Palm Beach County within the unincorporated area of Palm Beach County, including the area within the proposed Town of Loxahatchee Groves. Pursuant to s. 202.21, F.S., local communications services taxes imposed under s. 202.19, F.S., are effective with respect to taxable services dated on or after January 1 of a year. A municipality adopting, changing or repealing this tax must notify the Department of Revenue by September 1, prior to the January 1 effective date in order to provide sufficient time to notify providers of changes. Since the Loxahatchee Groves referendum is to be held on 11/8/05, providers will not be notified that the area within the new Town of Loxahatchee will no longer be subject to the tax.

Since the Loxahatchee Groves Council will not meet until 3/30/06, Loxahatchee Groves will be unable to impose a municipal communications services tax for the calendar year 2006.

- In the administration of the local communications services tax, the Department maintains an address database for use by the providers. Each local taxing jurisdiction is required to furnish to the Department service addresses and any changes in jurisdictional boundaries.
- If the incorporators intend for the communications service tax to continue at the county's current rate within the boundaries of Loxahatchee Groves for the calendar year 2006, then such language should be inserted into the draft charter, and the tax would still be reflected in this area as Palm Beach County through 12/31/06.
- If the incorporators intend to levy a communications services tax, the address data base should be updated by the county no later than 9/3/06. It would be necessary for the new city to adopt an ordinance for this tax prior to 9/1/06 to be effective 1/1/07.

Discretionary Sales Surtax

Currently, Palm Beach County imposes a .5 percent School Capitol Outlay Surtax, effective 1/1/05, with a specified expiration date of 12/30/10. Proceeds of this tax are distributed entirely to the Palm Beach County School Board and will not be available to Loxahatchee Groves.

Other Comments

The Local Government Council has received written comments from several individuals and groups opposing the incorporation of Loxahatchee Groves:

- The "Concerned Citizens for the Preservation of Loxahatchee Groves," who included petitions signed by residents and a letter providing their reasons for opposition.
- Separate correspondence with objections provided by Dr. J. William Louda. Dr. Louda also provided four pages of objections, recommendations and criticisms re: the proposed charter.
- Atlantic Land Investments, LLC.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Sponsor of the bill intends to offer an amendment which would provide for any change to the future land use map or a zoning designation to require the affirmative vote of no less than four members of the town council.